

## **REMARKS**

The above amendments are submitted in response to the Final Office Action mailed July 7, 2006 and in connection with a Request for Continued Examination (RCE). Authorization for a Credit Card charge of \$790.00 for the requisite fee is hereby included in the Electronic Fee Sheet attached. In addition, Applicants respectfully request that a one-month extension of time be granted to respond to the Final Office Action mailed July 7, 2006, and that the Examiner consider this a petition therefor. The period of response extends up to and includes November 7, 2006, and this paper is timely filed. Authorization for a Credit Card charge of \$120.00 for the one-month extension fee is hereby included in the Electronic Fee Sheet attached. Reconsideration and allowance of all pending claims by the Examiner are therefore respectfully requested.

In the subject Office Action, claims 1-9, 13-18, 20-29 and 31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,307,487 to Tavares et al. in view of U.S. Patent No. 5,710,881 to Gupta et al. In addition, claims 10-12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tavares et al. in view of Gupta et al. and further in view of U.S. Patent No. 6,393,419 to Novak et al., and claims 19 and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tavares et al. in view of Gupta et al. and further in view of U.S. Patent Application Publication No. 2003/0120669 to Han et al.

Applicants respectfully traverse the Examiner's rejections to the extent that they are maintained. Applicants have canceled claims 6-13 and 21-24, amended claims 1-2, 5, 20 and 31, and added new claim 33. Applicants respectfully submit that no new matter is being added by the above amendments, as the amendments are fully supported in the specification, drawings and claims as originally filed.

As an initial matter, Applicants wish to thank the Examiner for the courtesy extended in the personal interview between the Examiner and Applicants' representative on October 18, 2006. In the interview, proposed amendments to the claims to address the art-based rejections were discussed. The Examiner did indicate in the interview that the addition of the term "storage" to claim 31 would adequately address any §101 concerns, and that the addition of the subject matter of claim 13 into the independent claims would

overcome the art-based rejections. The Examiner did, however, indicate that an updated search would be required prior to allowance of the application.

Applicants have now made amendments consistent with the subject matter that the Examiner indicated was allowable over the prior art of record. In particular, independent claim 5 has been amended to incorporate the subject matter of claim 13, and claims 6-13 have been canceled without prejudice for consistency with the amendment to claim 5. Independent claim 1 has also been amended to incorporate subject matter consistent with claim 13, while claim 2 has been amended for consistency with the amendment made to claim 1.

Applicants have also added new independent claim 33, which recites essentially the same subject matter of claim 13, except that rather than reciting that the first and third states of the flux indicator include even values, and the second state of the flux indicator includes an odd value (as in claim 13), claim 33 recites that the first and third states of the flux indicator include odd values, and the second state of the flux indicator includes an even value. Therefore, from a functional standpoint, claims 13 and 33 are essentially the same, differing only based upon the starting value for the flux indicator being an even or odd value.

Applicants have also amended independent claims 20 and 31, and claims 21-24 have been canceled without prejudice for consistency with the amendment to claim 20. The amendments to claims 20 and 31 are consistent with the subject matter in claim 13 that was found to be allowable by the Examiner, but cover both the situation where the starting value for the flux indicator (i.e., the first state) includes an even value (as in claim 13), as well as the converse situation where the starting value for the flux indicator includes an odd value.

As Applicants' representative noted in the aforementioned interview, neither Tavares nor Gupta discloses or suggests a flux indicator that includes three states, and that is updated from a first even value to an odd value and then to a second even value that is different from the first even value, such that an attempt to read data from a data structure associated with the flux indicator can confirm that the data is value if the values for the first and second copies of the flux indicator are equal and the first copy of the flux

indicator is set to an even value. Nor does either reference disclose or suggest the converse situation where the flux indicator is updated from a first odd value to an even value and then to a second odd value that is different from the first odd value.

Tavares discloses the use of two separate counters, while Gupta discloses a counter that is used for an entirely different purpose - tracking the number of cached copies of a data structure. Moreover, while Gupta discloses an additional flag, that flag is binary in nature, and thus capable of storing only two possible states. As such, the proposed combination of Tavares and Gupta falls short of disclosing or suggesting a flux indicator having the specific features recited in the aforementioned claims, and which is capable of being queried in the specific manner recited in these claims when accessing a data structure to ensure that the copy of data accessed from the data structure is valid.

Applicants therefore respectfully submit that all claims now recite subject matter that is patentable over the prior art of record, and that is consistent with the subject matter the Examiner found to be allowable in the aforementioned interview. Reconsideration and allowance of independent claims 1, 5, 20, 31 and 33, and of claims 2-4, 14-19, and 25-30 which depend therefrom, are therefore respectfully requested.

If the Examiner has any questions regarding the foregoing, or which might otherwise further this case onto allowance, the Examiner may contact the undersigned at (513) 241-2324. Moreover, if any other charges or credits are necessary to complete this communication, please apply them to Deposit Account 23-3000.

Respectfully submitted,

November 7, 2006

Date

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